

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JAN 9 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

TERRANCE L. LAVOLL,

Applicant,

v.

JERRY HOWELL, Warden,

Respondent.

No. 19-73183

District of Nevada,
Las Vegas

ORDER

Before: CALLAHAN, NGUYEN, and HURWITZ, Circuit Judges.

The application for authorization to file a second or successive 28 U.S.C. § 2254 habeas corpus petition in the district court seeks authorization to challenge the applicant's Eighth Judicial District Court of the State of Nevada jury-trial convictions in case number 97C144545. The application contends, and the docket for those proceedings confirms, that on July 6, 2012, the judgment was amended to include a term of lifetime supervision and requirement of sex-offender registration. Because this is the applicant's first proposed petition challenging the amended judgment of conviction issued in 2012, the petition is not "second or successive," and authorization to file a habeas petition in the district court is not required. *See Magwood v. Patterson*, 561 U.S. 320 (2010); *Wentzell v. Neven*, 674 F.3d 1124 (9th Cir. 2012).

We express no opinion as to the merits of the applicant's claims or whether

the procedural requirements of 28 U.S.C. §§ 2244(d) and 2254 are satisfied.

The Clerk will transfer the proposed section 2254 petition filed at Docket Entry No. 1, to the United States District Court for the District of Nevada. The proposed petition is deemed filed in the district court on November 26, 2019, the date on which it was delivered to prison authorities for forwarding to this court. *See* Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 270 (1988); *Orona v. United States*, 826 F.3d 1196, 1198-99 (9th Cir. 2016) (AEDPA's statute of limitations period is tolled during pendency of an application).

Upon transfer of the proposed petition, the Clerk will close this original action.

Any pending motions are denied as moot.

No further filings will be entertained in this case.

**DENIED AS UNNECESSARY; PROPOSED PETITION
TRANSFERRED to the district court.**